PERFORMANCE AUDIT
OF THE

BUREAU OF HEALTH SERVICES

DEPARTMENT OF COMMUNITY HEALTH

April 2004

63-430-03

"...The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof."

– Article IV, Section 53 of the Michigan Constitution

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Office of the Auditor General

REPORT SUMMARY

Performance Audit

Bureau of Health Services

Department of Community Health

Report Number:
63-430-03

Released:
April 2004

The mission of the Bureau of Health Services (BHSER), Department of Community Health, is to protect the health, safety, and welfare of the citizens of Michigan by ensuring that providers of health services meet required standards of practice. BHSER is responsible for licensing health care professionals, investigating allegations it receives against them, and, when appropriate, taking action to discipline professionals determined to have violated the Public Health Code.

Audit Objectives:

1. To assess BHSER's effectiveness and efficiency in administering its licensing functions.

2. To assess BHSER's effectiveness and efficiency in responding to consumer allegations and complaints.

3. To assess BHSER's effectiveness and efficiency in the administration of other selected BHSER activities.

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Audit Conclusions:

1. We concluded that BHSER was generally effective and efficient in administering its licensing functions.

2. We concluded that BHSER was generally effective and efficient in responding to consumer allegations and complaints.

3. We concluded that BHSER was generally effective and efficient in the administration of other selected BHSER activities.

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Noteworthy Accomplishments:

In January 2001, BHSER implemented the licensing phase of a new database system called License 2000. During fiscal year 2001-02, the complaint and compliance tracking phase of License 2000 was implemented so that only one database system tracks licensing, regulatory, and compliance functions instead of each area having its own database. Implementation of License 2000 has allowed BHSER to also implement on-line license renewal for all health care professionals and allows new license applicants the opportunity to verify the status of their license applications on-line 24 hours a day.

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Reportable Conditions:

BHSER did not conduct continuing education audits of individuals in a timely manner. Also, BHSER did not sanction

individuals who did not obtain required continuing education training. (Finding 1)

BHSER did not restrictively endorse checks or money orders or store them in a secure location prior to deposit (Finding 2).

BHSER did not investigate allegations of improper conduct of health care professionals in a timely manner (Finding 3).

BHSER needs to improve its monitoring of complaints referred to the Department of Attorney General (Finding 4).

BHSER did not competitively bid its contracts for the Health Professional Recovery Program (HPRP) and prescription reporting services. Also, BHSER did not verify the propriety of all charges submitted by the HPRP contractor for reimbursement. (Finding 5)

BHSER needs to improve its monitoring of sanctions imposed against health care professionals to ensure that disciplinary actions are properly enforced (Finding 6).

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Agency Response:

Our audit contains 6 findings and 8 corresponding recommendations. BHSER's response indicated that it agrees and will comply with all of the recommendations.

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Background:

Throughout the period covered by this audit, BHSER was located within the Department of Consumer and Industry Services. However, the Governor, through Executive Order No. 2003-18, transferred BHSER to the Department of Community Health, effective December 7, 2003.

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A copy of the full report can be obtained by calling 517.334.8050 or by visiting our Web site at: http://audgen.michigan.gov

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THOMAS H. MCTAVISH, C.P.A.
AUDITOR GENERAL

April 27, 2004

Ms. Janet Olszewski, Director
Department of Community Health
Lewis Cass Building
Lansing, Michigan

Dear Ms. Olszewski:

This is our report on the performance audit of the Bureau of Health Services, Department of Community Health.

This report contains our report summary; description of agency; audit objectives, scope, and methodology and agency responses and prior audit follow-up; comments, findings, recommendations, and agency preliminary responses; summary schedules, presented as supplemental information; and a glossary of acronyms and terms.

Our comments, findings, and recommendations are organized by audit objective. The agency preliminary responses were taken from the agency's response subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

Thomas H. McTavish, C.P.A.
Auditor General

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TABLE OF CONTENTS

BUREAU OF HEALTH SERVICES
DEPARTMENT OF COMMUNITY HEALTH

GLOSSARY

Description of Agency

The mission* of the Bureau of Health Services (BHSER) is to protect the health, safety, and welfare of the citizens of Michigan by ensuring that providers of health services meet required standards of practice. BHSER is responsible for regulating health care professionals through administration of Act 368, P.A. 1978, as amended (the Public Health Code, being Sections 333.1101 - 333.25211).

Throughout the period covered by this audit, BHSER was located within the Department of Consumer and Industry Services. However, the Governor, through Executive Order No. 2003-18, transferred BHSER to the Department of Community Health, effective December 7, 2003. Also, the Executive Order renamed the Department of Consumer and Industry Services as the Department of Labor and Economic Growth (DLEG).

BHSER consists of three divisions:

1. Licensing Division

   The Licensing Division is responsible for processing applications for licensure and examination and issuing new and renewed licenses and registrations annually to approximately 159,000 licensees and registrants. This includes performing continuing education audits and maintaining license records for over 375,000 health care professionals working in 32 health occupations. Also, the Division provides executive direction and administrative support for the health profession boards and task forces established under the Public Health Code.

   The Licensing Division had a total of 380,593 active licensees as of September 30, 2003. A summary schedule of licenses issued by license type is presented as supplemental information.

2. Complaint and Allegation Division (CAD)

   CAD is responsible for receiving citizen allegations against health care professionals licensed or registered by BHSER. CAD gathers preliminary information and determines whether investigations of the allegations should be authorized. Following investigation by the Health Regulatory Division (HRD), CAD

* *See glossary at end of report for definition.*

drafts formal administrative complaints and attends compliance conferences to attempt to resolve the complaints. Also, CAD processes applications for reinstatement of revoked or suspended licenses or reclassification of disciplinary limited licenses and maintains disciplinary records for health care professionals.

During fiscal year 2002-03, CAD received 1,675 allegations and drafted and filed 503 formal administrative complaints against health care professionals. In addition, 501 disciplinary actions were taken against health care professionals in that fiscal year. A summary schedule of allegations, complaints, and disciplinary actions by license type for fiscal year 2002-03 is presented as supplemental information.

3. Health Regulatory Division (HRD)

   HRD is responsible for investigating authorized allegations of statutory violations committed by health care professionals. HRD works closely with CAD as it receives the allegations authorized for investigation from CAD and then provides the conclusions from its investigations back to CAD for the drafting of formal complaints. HRD is also responsible for overseeing other BHSER activities, including inspections and audits of pharmacies, drug manufacturers, and other businesses and individuals who are licensed to prescribe, dispense, administer, or distribute drugs in the State.

   During fiscal year 2001-02, HRD investigated 1,377 allegations that it received from CAD. Of these, 281 resulted in the development of formal complaints and 707 resulted in the allegation being determined to be unfounded. The investigations for the remaining 389 had not been completed as of the end of the fiscal year.

During fiscal year 2001-02, BHSER expended approximately $18.9 million and generated licensing revenue of approximately $19.7 million. As of June 30, 2003, BHSER had 110 employees.

Audit Objectives, Scope, and Methodology and Agency Responses and Prior Audit Follow-Up

Audit Objectives

Our performance audit* of the Bureau of Health Services (BHSER) had the following objectives:

1. To assess BHSER's effectiveness* and efficiency* in administering its licensing functions.

2. To assess BHSER's effectiveness and efficiency in responding to consumer allegations and complaints.

3. To assess BHSER's effectiveness and efficiency in the administration of other selected BHSER activities.

Audit Scope

Our audit scope was to examine the program and other records of the Bureau of Health Services. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures, conducted from April through August 2003, included examination of BHSER's records and activities primarily for the period October 1, 2000 through June 30, 2003.

We conducted a preliminary review of BHSER's operations to formulate a basis for defining the audit objectives and scope. Our preliminary review included interviewing BHSER personnel; reviewing applicable statutes, regulations, and rules; analyzing available data and statistics; and reviewing BHSER policies and procedures to obtain an understanding of BHSER's operational activities and responsibilities.

* *See glossary at end of report for definition.*

To assess BHSER's effectiveness and efficiency in administering its licensing functions, we tested license applications for initial licensure for proper verification of education, experience, and examination requirements; proper assessment of applicable fees; and timeliness of processing. This included reviewing BHSER's oversight and monitoring of the examination process for the various license examinations. Our testing of the renewal process included evaluating BHSER's monitoring and auditing of continuing education requirements. We reviewed information that BHSER provides to licensees, license applicants, and the general public on its Web site to determine if it was effective in providing easy access to applicable information on licenses and licensed professionals.

To assess BHSER's effectiveness and efficiency in responding to consumer allegations and complaints, we tested the timeliness of BHSER's response to consumer allegations about health care professionals, including preliminary review, investigation, sanction, and compliance monitoring. This included determining compliance with mandated review time frames for allegations contained within the Public Health Code. We assessed the potential effect that the Health Insurance Portability and Accountability Act (HIPAA) had on BHSER's operations.

To assess BHSER's effectiveness and efficiency of the administration of other selected BHSER activities, we reviewed the pharmacy inspection program to determine that violations noted during inspections were properly resolved. We also reviewed the contracts that BHSER had with contractors to provide the Michigan Automated Prescription System (MAPS) and Health Professional Recovery Program (HPRP) to determine the methods used for selecting the contractors. We compared the costs of these contracts with those of alternative contractors and evaluated the methods that BHSER used for verifying the amounts that the contractors charged for their services.

Agency Responses and Prior Audit Follow-Up

Our audit contains 6 findings and 8 corresponding recommendations. BHSER's preliminary response indicated that it agrees and will comply with all of the recommendations.

The agency preliminary response that follows each recommendation in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require the

Department of Community Health to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report.

We released our prior performance audit of the Licensing Process, Bureau of Occupational and Professional Regulation, Department of Consumer and Industry Services (#6340295), in November 1996. BHSER complied with all 4 of the prior audit recommendations.

COMMENTS, FINDINGS, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSES

ADMINISTRATION OF LICENSING FUNCTIONS

COMMENT

Audit Objective: To assess the Bureau of Health Services' (BHSER's) effectiveness and efficiency in administering its licensing functions.

Conclusion: We concluded that BHSER was generally effective and efficient in administering its licensing functions. However, we noted reportable conditions* related to continuing education audits and safeguarding of cash receipts (Findings 1 and 2).

Noteworthy Accomplishments: In January 2001, BHSER implemented the licensing phase of a new database system called License 2000*. During fiscal year 2001-02, the complaint and compliance tracking phase of License 2000 was implemented so that only one database system tracks licensing, regulatory, and compliance functions instead of each area having its own database. Implementation of License 2000 has allowed BHSER to also implement on-line license renewal for all health care professionals and allows new license applicants the opportunity to verify the status of their license applications on-line 24 hours a day.

FINDING

1. Continuing Education Audits

BHSER did not conduct continuing education audits of individuals in a timely manner. Also, BHSER did not sanction individuals who had not obtained required continuing education training.

Continuing education audits are necessary to determine that licensees have obtained required continuing professional education, which helps ensure that licensees maintain minimum qualifications for licensure. Imposing appropriate sanctions on individuals who have not met required training requirements would help ensure compliance with continuing education licensing requirements.

BHSER works with 19 appointed boards and regulatory authorities to license and regulate individuals working in 32 health care professions. Ten of these boards and regulatory authorities have established continuing education requirements that

** See glossary at end of report for definition.*

individuals must meet to renew their licenses. As a result of renewing their licenses, individuals are attesting that they have received the required continuing education training. Individuals are required to retain proof of such training for a period of one year after renewing their licenses.

BHSER has established a continuing education audit process that requires selected individuals to submit documentation to prove that they have met the continuing education requirements to renew their licenses. Individuals who BHSER determines are unable to prove or who admit that they have not received the required continuing education training may face sanctions, such as fines, probation, and/or formal reprimands. In addition, this information is to be permanently recorded on the individuals' license records.

We randomly selected 35 BHSER audits completed during our audit period and noted:

a. BHSER did not conduct continuing education audits in a timely manner. These audits are to be initiated approximately 90 days after the individuals have renewed their licenses. We determined that the time period from the expiration of a license to the date that BHSER initially requested documentation of continuing education training from individuals for all 35 audits reviewed ranged from 133 to 417 days, with the average being 225 days. Of the 35 audits reviewed, initial requests for supporting documentation for 3 (9%) audits was requested over one year after the respective licenses had expired and, therefore, the individuals were no longer required to retain the documentation.

b. BHSER did not sanction individuals who did not meet the continuing education training requirement for their licenses. We determined that two individuals, after being requested to supply documentation of training, notified BHSER that they had not received any continuing education training during the period in question. During additional follow-up on these two individuals' audits, we noted that during BHSER's continuing education audit process for fiscal year 2001-02, a total of 147 individuals were identified as not having met their licenses' continuing education training requirements. BHSER management elected not to sanction any of these individuals because of the amount of time that had passed from the end of the license period to when the audits were initiated. However, 130 (88%) of the 147 audits were initiated within 12

months of the license renewal and, therefore, the individuals could have been subject to available sanctions.

RECOMMENDATIONS

We recommend that BHSER conduct continuing education audits of individuals in a timely manner.

We also recommend that BHSER sanction individuals who have not obtained required continuing education training.

AGENCY PRELIMINARY RESPONSE

BHSER agrees that audits should have been done in a more timely manner. BHSER informed us that it recently created a program that selects licensee samples that meet BHSER's continuing education audit needs. Because of this, BHSER anticipates that the sample selection process and audit of continuing education records will be completed in a timely manner. BHSER informed us that, during the audit period, it experienced numerous staff changes in the unit that conducts the audits, affecting its ability to respond appropriately. BHSER also informed us that the unit is now fully staffed and able to perform its function in a more timely manner.

BHSER agrees that individuals who have not obtained required continuing education training should be sanctioned. BHSER will comply with its continuing education audit policies and procedures and sanction individuals as appropriate.

FINDING

2. Safeguarding of Cash Receipts

BHSER did not restrictively endorse checks or money orders or store them in a secure location prior to deposit. As a result, cash receipts were not properly safeguarded from loss or theft.

Department of Management and Budget (DMB) procedures require that checks and money orders be restrictively endorsed upon receipt and stored in a safe or a locked file cabinet until deposited.

BHSER regularly receives checks and money orders for payment of license and other fees at its Lansing office from individuals and companies that pay in person. Our review of deposit log sheets at the Lansing office for the period November 2002 through April 2003 disclosed that BHSER collected over $255,000, with deposits ranging from $142 to $12,670 and the average deposit exceeding $2,300.

RECOMMENDATION

We recommend that BHSER restrictively endorse checks and money orders and store them in a secure location prior to deposit.

AGENCY PRELIMINARY RESPONSE

BHSER concurs that improving safeguards over cash receipts would decrease the risk of loss or theft. BHSER will more vigilantly enforce the current policy regarding the maintenance of a locked cabinet at all times. In consultation with the Department of Labor and Economic Growth's (DLEG's) Office of Finance and Administrative Services and the Department of Community Health's (DCH's) Bureau of Finance, BHSER will develop a policy regarding the utilization of appropriate stamps for endorsement of checks and money orders received directly by BHSER.

In keeping with this commitment, DCH's Bureau of Finance will be issuing a memorandum by March 31, 2004 updating its procedures for handling cash receipts received directly by program offices. The procedure will require that all checks and money orders be restrictively endorsed immediately upon receipt and be stored in a secure location prior to delivery to the cashier's office. The receipts received in the Bureau of Health Professions (formerly known as the Bureau of Health Services) will continue to be processed by DLEG's cashier office in accordance with DCH's procedures.

CONSUMER ALLEGATIONS AND COMPLAINTS

COMMENT

Background: In addition to licensing health care professionals, BHSER is responsible for responding to allegations of unprofessional behavior or criminal actions of the professionals who are brought to its attention. If BHSER determines that an allegation appears valid, the allegation is assigned a number and an investigation is initiated.

Depending on the outcome of the investigation, the allegation may be determined to be unfounded, with no further action necessary, or legitimate, at which time a complaint is filed against the health care professional. Resolution of a complaint is dependent upon the violation that has occurred. The timely follow-up and resolution of allegations of unprofessional behavior or criminal actions are critical if BHSER is to accomplish its mission of protecting the health, safety, and welfare of the citizens of Michigan.

BHSER uses License 2000, a database system that performs licensing functions and serves as a complaint and compliance case tracking system, to monitor the status and actions taken on all allegations that BHSER investigates. During the period October 1, 2000 through March 31, 2003, BHSER received 7,129 allegations and closed 6,945.

Audit Objective: To assess BHSER's effectiveness and efficiency in responding to consumer allegations and complaints.

Conclusion: We concluded that BHSER was generally effective and efficient in responding to consumer allegations and complaints. However, we noted reportable conditions related to investigation of allegations and complaint monitoring (Findings 3 and 4).

FINDING

3. Investigation of Allegations

BHSER did not investigate allegations of improper conduct of health care professionals in a timely manner. As a result, these investigations were not completed and disciplinary actions, if applicable, were not imposed within time frames specified by statute.

Section 333.16231 of the *Michigan Compiled Laws* requires BHSER to automatically initiate investigations of allegations after 7 days of submitting them to the respective licensing board for authorization to investigate. Also, Section 333.16237 of the *Michigan Compiled Laws* requires that final disciplinary action be taken within one year after the initiation of an investigation. The purpose of these time frames is to help ensure that allegations are evaluated and, if applicable, investigated and resolved in a timely manner to help protect the health, safety, and welfare of the citizens of Michigan.

We randomly selected 38 complaints that were closed during the period October 1, 2000 through March 31, 2003 to determine if they were processed in a timely manner. We noted:

a. BHSER did not commence initial reviews of allegations in a timely manner.

   BHSER procedures require that all allegations be date-stamped when received and then forwarded to Allegation Section staff for entry into an automated tracking system. After being entered into an automated tracking system, BHSER staff conduct an initial review of the allegation to determine the appropriate course of action to be taken based on the type of activity reported. Although this time period is not statutorily mandated, a minimal number of days should be needed for this activity.

   Our review of this process disclosed that BHSER did not conduct the initial review of 16 (42%) of 38 allegations in a reasonable time period. The difference between the date that the allegations were received and the date that the allegations were entered into the automated tracking system, which indicated the start of the initial review, varied from 1 to 118 days, with an average of over 17 days.

b. BHSER did not initiate complaint investigations in accordance with statutory requirements.

   After BHSER conducts its initial review of an allegation, the file is turned over to the appropriate licensing board for authorization to initiate an investigation. According to statutory provisions, an investigation is automatically authorized if the licensing board has not taken action on the complaint after 7 days.

   We determined that BHSER did not automatically initiate investigations on 3 (8%) of 38 allegations that the licensing board did not take action on within 7 days. Delays in the initiation of the investigations of these complaints ranged from 15 to 48 days, with the average delay exceeding 30 days.

c. BHSER did not close complaint investigations within one year as required by statute.

According to the statute, complaint investigations are to be completed and penalties, if applicable, assessed within one year after an investigation is initiated. We determined that 2 (5%) of the 38 complaints reviewed were not completed within one year from the date that the investigations were authorized, requiring 392 and 433 days.

RECOMMENDATION

We recommend that BHSER investigate allegations of improper conduct of health care professionals in a timely manner.

AGENCY PRELIMINARY RESPONSE

BHSER concurs with the recommendation that allegations should be investigated in a timely manner:

a. BHSER agrees that the period between receipt of an allegation and entry in the automated tracking system is excessive. BHSER will review the process and implement changes to ensure that the processing time is reduced to a minimum number of days.

b. BHSER agrees with the finding that investigations were not always initiated within statutory requirements. BHSER will revise current procedures and develop a system so that reviewing board members will have records to review within the time frame noted in the Public Health Code.

c. BHSER acknowledges that not all complaint investigations are completed within one year, as required by statute. BHSER acknowledges that it can be difficult to comply with this statutory provision due to circumstances beyond BHSER's control, i.e., uncooperative witnesses, criminal cases taking precedence over administrative actions, and subpoena delays. However, in at least three cases, the Court of Appeals has determined that the one-year time frame is more of a guidance to work by and exceeding this time frame does not affect the outcome of BHSER's investigations. Regardless, BHSER informed us that it has pursued amendments to the language in Section 333.16237(5) of the *Michigan Compiled Laws* in the past and will continue to pursue amendments to the language. BHSER will review the investigation process and attempt to identify steps that will expedite the process in order to comply with the one-year requirement.

FINDING

4. Complaint Monitoring

BHSER needs to improve its monitoring of complaints referred to the Department of Attorney General (AG). This would help to improve the accuracy of BHSER's complaint tracking system and would also help improve the timeliness of the investigation of these complaints.

BHSER occasionally requires the legal assistance of the AG to resolve complaints against health care professionals. BHSER and the AG have established a memorandum of understanding that provides for quarterly reporting and reconciliation of complaints assigned to the AG. This reporting and reconciliation process allows BHSER to update each complaint's status on the License 2000 complaint tracking system.

Using BHSER's complaint tracking system, we randomly selected 8 unresolved (open) complaints that had been referred to the AG for periods ranging from 1 to 44 months. We obtained available BHSER and AG quarterly reports to compare the status of these complaints with the information on the complaint tracking system. We noted that only 3 of these complaints were shown as open on both BHSER and AG quarterly reports. Of the remaining 5 complaints, the AG reported 2 as closed and 3 as open. BHSER did not report any of the 5 complaints as open on its quarterly reports to the AG. During our review of these complaints, we also noted that BHSER and the AG had not prepared all quarterly reports as provided for in the memorandum of understanding. We further noted that the AG had not submitted any quarterly reports for fiscal year 2001-02 and BHSER prepared only one during this same time period.

RECOMMENDATION

We recommend that BHSER improve its monitoring of complaints referred to the AG.

AGENCY PRELIMINARY RESPONSE

BHSER concurs with the recommendation that the monitoring of complaints referred to the AG should be improved. During the audit period, reconciliation of BHSER and AG complaint processing activity was complicated by the implementation of the License 2000 complaint tracking system. BHSER informed

us that routine reports are now being generated and monitoring of AG files is being conducted on a regular basis.

OTHER SELECTED BHSER ACTIVITIES

COMMENT

Background: Act 80, P.A. 1993, created the Health Professional Recovery Program (HPRP) to assist health care professionals whose use of drugs or alcohol or whose mental or emotional conditions may have resulted in impaired practices. This Act requires DCH to contract with a private contractor to provide HPRP services. Health care professionals may receive HPRP services by either voluntarily participating in a recovery program or involuntarily participating as a result of BHSER enforcing a Public Health Code sanction. HPRP services have been available to health care professionals since April 1, 1994 and have been provided by the same private contractor since 1996. During the eight-year period ended March 31, 2002, HPRP provided services to 1,959 health care professionals. Payments for these services for the fiscal year ended September 30, 2002 were approximately $1.7 million.

Act 231, P.A. 2001, required the Department of Civil Service to establish an electronic reporting system to monitor the dispensing of certain controlled substance drugs. In response to this requirement, BHSER modified a contract originally executed in 1994 with a private contractor, who was providing a prescription reporting service, to implement the Michigan Automated Prescription System (MAPS). MAPS, which was implemented in January 2003, requires all locations dispensing prescriptions of certain controlled substance drugs to report pertinent information regarding each prescription filled. BHSER provides this information to authorized individuals for the purpose of investigating potential abuse of such drugs. A portion of the controlled substance license fee funds the cost of providing MAPS. The current contract for this program is expected to cost more than $1.4 million annually. As of May 2003, BHSER had paid the contractor over $426,000 for four months of services.

Audit Objective: To assess BHSER's effectiveness and efficiency in the administration of other selected BHSER activities.

Conclusion: We concluded that BHSER was generally effective and efficient in the administration of other selected BHSER activities. However, we noted

reportable conditions related to the competitive bidding and monitoring of contracts and the monitoring of sanctions (Findings 5 and 6).

FINDING

5. Competitive Bidding and Monitoring of Contracts

BHSER did not competitively bid its contracts for the HPRP and prescription reporting services. Also, BHSER did not verify the propriety of all charges submitted by the HPRP contractor for reimbursement.

Competitive bidding of contracts would help ensure that BHSER obtains needed services at the lowest possible cost. Verifying the propriety of charges submitted by contractors would help BHSER ensure that services are provided in accordance with the terms of the contract.

State agencies frequently contract with independent contractors to obtain needed services. In order to obtain the least expensive means to perform such services, State agencies normally use competitive bids to select the contractor. Occasionally, State agencies require unique services that may be available from only one source. Under such circumstances, the State agency is required to provide an explanation for requesting an exemption from using competitive bidding to secure the needed services.

Our review of the contracts to provide the HPRP and prescription reporting services disclosed:

a. BHSER used a competitive bidding process in 1996 to secure the original two-year HPRP contract. At that time, BHSER received bids from six contractors interested in providing this service. Since 1998, when the original HPRP contract expired, BHSER has renewed the contract three times, for a total of more than $9.5 million, stating that this was a sole source vendor.

   DMB Administrative Guide procedure 0510.13 allows contracts to be awarded on a sole source basis, providing there is justification. However, BHSER did not provide any justification as to why this contract was awarded on a sole source basis. Because six different contractors submitted bids on the original contract, BHSER should have sought bids on the renewal of this contract.

We also noted that the State Administrative Board did not approve the latest renewal of this contract, for the period October 1, 2002 through September 30, 2004, until December 30, 2002. DMB Administrative Guide procedure 0620.01 requires that the State Administrative Board approve all contracts of $250,000 or more and that approval be received prior to the contract initiation date. We determined that no payments for services were made on this contract until the State Administrative Board approved the contract.

b. BHSER used a competitive bidding process for the prescription reporting service contract that covered the period October 1, 1994 through September 30, 1998. Since that time, BHSER has used change orders three times to extend the contract and increase the contract amount by a total of more than $7.1 million, citing sole source as the reason for not using the competitive bidding process. The latest contract extension, which was for providing the MAPS services, was for the period October 1, 2002 through December 31, 2005 and increased the contract by more than $4.8 million. BHSER did not provide justification why this contract needed to be issued on a sole source basis.

   We compared the revenues generated from the controlled substance license fees, used for funding the MAPS program, with the annual contract cost for the program. We noted that the annual cost for providing the MAPS program exceeds revenues by approximately $300,000. We determined during our follow-up of this funding shortfall that BHSER staff had identified another contractor that could provide the same MAPS services as the current contractor at a significantly lower cost. We also determined that attempts were being made to renegotiate the terms of the contract with the current contractor to lower its cost. Based on our analysis of documentation that we obtained, we concluded that BHSER could save over $1.1 million annually if it were to use the services of the alternate contractor to provide the MAPS services.

c. BHSER reimburses the HPRP contractor monthly for office operating expenses and professional services it provides to health care professionals. Our review of the reimbursement process disclosed that the contractor provides a detail of the office operating expenses for BHSER staff to review and authorize. However, because of the confidential nature of the names of the health care professionals who are voluntarily participating in HPRP, the

contractor does not provide any information that would allow BHSER to verify the propriety of the professional services charges submitted. According to the fiscal year 2002-03 budget for this contract, BHSER will pay over $680,000 for these professional services.

We reviewed the HPRP contract and noted that it contains provisions that allow the State or its designees to conduct audits of the financial and accounting records of the contractor for up to three years after the contract's expiration date. We determined that an independent committee conducted clinical program reviews of this contractor's records in 1999 and 2002 to determine if clinical decisions were documented in the files and if the decisions appeared appropriate. However, BHSER has not requested any audits of the financial and accounting records of this contractor.

DMB Administrative Guide policy 0610 states that departments are to manage their contracts in a manner that is fiscally responsible and ensure that vendors meet their contractual obligations. Such measures would include using competitive bids to select contractors and verifying all costs associated with such contracts.

RECOMMENDATIONS

We recommend that BHSER competitively bid its contracts for the HPRP and prescription reporting services.

We also recommend that BHSER verify the propriety of all charges submitted by the HPRP contractor for reimbursement.

AGENCY PRELIMINARY RESPONSE

a. BHSER agrees with the finding that the contracts for the HPRP and prescription reporting services should be competitively bid. BHSER is currently in the process of drafting the invitation to bid for the HPRP contract and anticipates issuing the invitation no later than May 1, 2004. The current HPRP contract expires September 30, 2004.

b. The current contract for prescription reporting services expires December 31, 2005. BHSER, DMB, and the AG recently reviewed the contract and determined that, based on current contract language, it would not be feasible to cancel the contract at this time. However, BHSER and DMB were

successful in negotiating the terms of the contract, resulting in a considerable savings over the life of the contract. BHSER will competitively bid the contract when it expires in 2005.

c. BHSER concurs with the recommendation that charges submitted by the HPRP contractor for reimbursement should be verified. BHSER informed us that it has increased its scrutiny of invoices submitted by the vendor and has requested documentation to support various charges. BHSER will work with DCH Internal Audit staff to develop a system for auditing the financial and accounting records of the contractor.

FINDING

6. Monitoring of Sanctions

BHSER needs to improve its monitoring of sanctions imposed against health care professionals to ensure that disciplinary actions are properly enforced.

Section 333.16226 of the *Michigan Compiled Laws* specifies sanctions that may be imposed on an individual as the result of certain license violations, such as unprofessional conduct, incompetence, and improper use of controlled substances. Sanctions may include license revocation or restriction (such as direct oversight supervision or prohibited or restricted access to controlled substances) as well as other restrictions. In addition to working under the direct supervision of an approved health care professional during the sanction period, sanctions may also require that the oversight supervisor file quarterly work performance reports. These work performance reports are used to inform the licensing board of the sanctioned health care professional's performance and compliance with the disciplinary sanction. At the time of our audit, BHSER was responsible for monitoring disciplinary sanctions of approximately 500 health care professionals.

Our review disclosed that BHSER could not ensure that disciplinary actions were properly enforced. We randomly selected 4 disciplinary sanction files to determine if all required information was on file. Our review disclosed that 2 files did not contain all required information. The first file did not have documentation that the licensing board had approved the oversight supervisor and did not contain the quarterly work reports for the first 18 months of the sanction period. The second

file did not contain any quarterly work reports for the three years that the health care professional had been sanctioned.

BHSER staff reported that they were unaware of the missing reports from these files and, as a result, they had not followed up on them.

RECOMMENDATION

We recommend that BHSER improve its monitoring of sanctions imposed against health care professionals to ensure that disciplinary actions are properly enforced.

AGENCY PRELIMINARY RESPONSE

BHSER agrees that it needed to improve its monitoring of sanctions imposed against health care professionals. BHSER informed us that, during the past year, an additional staff person was assigned to assist with the sanction monitoring function and that, as of February 2004, all monitoring files have been entered into License 2000, which will help ensure that appropriate monitoring occurs. BHSER also informed us that probation files are now being reviewed in a timely manner and that BHSER is in the process of identifying an additional full-time equated employee to allocate to the sanction monitoring function.

SUPPLEMENTAL INFORMATION

BUREAU OF HEALTH SERVICES
Licensing Division
Summary Schedule of Licenses Issued by License Type

License Type	New Licenses Issued in Fiscal Year 2001-02	New Licenses Issued in Fiscal Year 2002-03	Total Active Licensees as of September 30, 2003
Chiropractor	157	155	2,781
Counselor	452	443	6,478
Dentistry	704	708	19,119
Emergency medical support personnel	2,405	2,083	30,479
Marriage and family therapy	25	27	962
Medicine	2,648	2,598	32,839
Nursing	5,645	6,859	148,919
Nursing home administrator	64	66	1,254
Optometry	49	56	1,532
Osteopathic medicine and surgery	582	563	6,770
Occupational therapy	407	289	5,030
Pharmacy	5,695	6,225	75,811
Physical therapy	419	359	6,785
Physicians assistant	421	372	2,349
Podiatric medicine and surgery	73	60	819
Psychology	545	512	6,932
Sanitarian	16	16	578
Social worker	1,867	1,947	26,066
Veterinary medicine	291	294	5,090
Total	22,465	23,632	380,593

BUREAU OF HEALTH SERVICES
Complaint and Allegation Division
Summary Schedule of Allegations, Complaints, and Disciplinary Actions by License Type

Licensed Profession	Fiscal Year 2002-03 Number of Allegations Received	Number of Complaints Drafted	Disciplinary Actions*
Chiropractor	18	2	5
Counselor	13	2	1
Dentistry	166	17	19
Emergency medical support personnel	12	7	7
Marriage and family therapy	2		1
Medicine	407	63	65
Nursing	500	222	223
Nursing assistant (certified)	50	34	29
Nursing home administrator	29	3	3
Optometry	7		1
Osteopathic medicine and surgery	123	16	15
Occupational therapy	3	2	3
Pharmacy	127	67	74
Physical therapy	13	3	2
Physicians assistant	10	1	1
Podiatric medicine and surgery	17	6	10
Psychology	50	12	14
Social worker	40	21	21
Veterinary medicine	88	25	7
Total	1,675	503	501

* The number of "Disciplinary Actions" for a fiscal year can be more than the "Number of Complaints Drafted" for the same fiscal year. This may occur because the disciplinary action can take place in a fiscal year other than the year in which the complaint was drafted.

GLOSSARY

Glossary of Acronyms and Terms

AG	Department of Attorney General.
BHSER	Bureau of Health Services.
CAD	Complaint and Allegation Division.
DCH	Department of Community Health.
DLEG	Department of Labor and Economic Growth.
DMB	Department of Management and Budget.
effectiveness	Program success in achieving mission and goals.
efficiency	Achieving the most outputs and outcomes practical with the minimum amount of resources.
HPRP	Health Professional Recovery Program.
HRD	Health Regulatory Division.
License 2000	An automated database for providing information on licensed health care professionals.
MAPS	Michigan Automated Prescription System.
mission	The agency's main purpose or the reason that the agency was established.
performance audit	An economy and efficiency audit or program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate

decision making by parties responsible for overseeing or initiating corrective action.

reportable condition A matter that, in the auditor's judgment, represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.